

**STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD**



RODNEY N. TROUT and KATHY ALDERN,

Charging Parties,

v.

UNIVERSITY PROFESSIONAL & TECHNICAL
EMPLOYEES,

Respondent.

Case Nos. LA-CO-334-H
LA-CO-335-H

PERB Decision No. 1785-H

December 8, 2005

Appearances: Werner Witke, Representative, for Rodney N. Trout and Kathy Aldern; Leonard Carder by Margot Rosenberg, Attorney, for University Professional & Technical Employees.

Before Duncan, Chairman; Shek and McKeag, Members.

DECISION

DUNCAN, Chairman: This case is before the Public Employment Relations Board (PERB or Board) on appeal by Rodney N. Trout (Trout) and Kathy Aldern (Aldern) of a Board agent's dismissal of their unfair practice charges alleging that the University Professional & Technical Employees (UPTE) escrow/refund procedure related to notification of opportunity to object to the agency fee amounts under Chicago Teachers Union, Local No. 1 v. Hudson (1986) 475 U.S. 292 [121 LRRM 2793] (Hudson) is not appropriate. UPTE filed a response to the appeal.

On November 21, 2005, the Board received correspondence from Werner Witke, representative for Trout and Aldern, that the cases had been resolved by the parties and the appeal was withdrawn. The Board has reviewed this request and the entire record in this

matter and finds that granting the request is in the best interests of the parties and is consistent with the purposes of the Higher Education Employer-Employee Relations Act (HEERA).¹

DISCUSSION

If a case is resolved by the parties after the case is on the Board's docket one or both of the parties may request that the case be withdrawn. The Board reviews each request of this nature to determine whether granting it would be consistent with the governing statute and in the best interests of the parties. (Orange Unified School District (2001) PERB Decision No. 1437.)

It is clear that the Board has the discretion to grant or deny the request and to allow the withdrawal of a charge and even to vacate a proposed decision. (ABC Unified School District (1991) PERB Decision No. 831b.)

In this case, Trout and Aldern have requested that they be allowed to withdraw their unfair practice charges and the Board concludes it effectuates the purposes of HEERA to permit this withdrawal.

ORDER

The request by Rodney N. Trout and Kathy Aldern to withdraw their unfair practice charges in Case Nos. LA-CO-334-H and LA-CO 335-H is hereby GRANTED. It is ORDERED that the appeal and unfair practice charges are DISMISSED WITH PREJUDICE.

Members Shek and McKeag joined in this Decision.

¹HEERA is codified at Government Code section 3560, et seq.